THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.20243 of 2006

Date:05.07.2007

Between:

G.Prabhavathi.

.. PETITIONER

AND

GIC Housing Finance Limited and another.

..RESPONDENTS

ORDER:

The petitioner applied to the respondents for grant of loan, to purchase a house. On being satisfied about the eligibility and repaying capacity of the petitioner, the respondents sanctioned a sum of Rs.3,20,000/- on 24.09.2002. The amount was to be repaid in 180 equated monthly instalments, in a period of fifteen years.

The petitioner states that she paid the instalments, till recently, amounting to Rs.1,28,000/-, but could not pay the instalments for about seven months due to domestic problems. On account of the default, the respondents got issued notice to the petitioner and ultimately, they have invoked the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Society Interest Act, 2002 (for short 'the Act') to recover a sum of Rs.3,66,626/-, in addition to what has already been paid.

The petitioner states that even by the time the steps under the Act were invoked, the recovery of instalments commenced in the form of deduction from her salary and in that view of the

matter, there is no basis for the proceedings. She submits that the outstanding seven instalments would be paid shortly.

On behalf of the respondents, a counter-affidavit is filed alleging that the petitioner committed consistent default and left with no alternative, steps under the Act were initiated. Reference is made to the orders obtained from the Chief Metropolitan Magistrate, dated 04.01.2006.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

It is not in dispute that the petitioner obtained loan from the respondents and the same was to be repaid in 180 instalments of Rs.3,588/- each. Though the exact months for which the instalments are due is not forthcoming, the record, however, discloses that by the time the proceedings were initiated under the Act, the respondents started deducting the instalments from the salary of the petitioner by her employer i.e. M/s.Electronics Corporation of India Limited. The amount due from the petitioner is about Rs.27,000/- for some of the past months. Now that the instalments are being deducted from the salary, there is no necessity for the respondents to have recourse to the provisions of the Act. The petitioner can be required to pay the amount due for seven instalments within a specified time.

For the foregoing reasons, the writ petition is allowed and the proceedings initiated by the respondents against the petitioner are set aside, on condition that the petitioner clears the unpaid instalments, within a period of three months from today. The future instalments shall be recovered from her salary.

05.07.2007

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